

Applicant(s): Kolton et al.
Docket No.: 1201-23
February 2, 2005
Page 2

REMARKS

Submitted herewith is a new Power of Attorney entry of which is respectfully requested.

Independent claims 1 and 8 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 5,969,613 to Yeager et al. (hereinafter "Yeager"). This determination is respectfully traversed.

Each of claim 1 and 8 recites an electronic article surveillance assembly including a housing which supports an EAS marker disposed in the cavity of the housing. The housing defines a side wall, a ceiling and a continuous peripheral floor portion. The side wall is tapered to form with the housing a periphery having a V-shaped cross-section.

The Examiner states clearly in the Office Action that Yeager fails to disclose the taper to form the housing with a periphery having a V-shaped cross-section. The Examiner concludes that the cross-sectional shape of the housing is not critical to design and operation of the EAS security device and would be obvious to one skilled in the art.

The Examiner has offered no support for his conclusion that the particular shape of the housing is a matter of design choice and it would have been obvious to one skilled in the art at the time the invention was made. The specification of the present application clearly and unambiguously states that the housing is formed to have a periphery with a V-shaped cross-section. This cross-section is shown in Figures 8-10. With specific references to Figure 10 of the present application, and at

Applicant(s): Kolton et al.
Docket No.: 1201-23
February 2, 2005
Page 3

page 4, line 18-page 5, line 3, the application discloses an assembly which may be applied to an article of manufacture such as a wine bottle having an exterior arcuate surface. As is clearly shown in Figure 10, the V-shaped cross-section of the housing 30 provides a smooth transition with the arcuate surface of the article. Thus the V-shaped body has a particular function and benefit. The Examiner's conclusion to contrary therefore is believed to be misplaced.

Yeager fails to show the V-shaped body. Moreover, Yeager fails to show that the housing itself can be applied to an arcuate surface. Thus, with respect to claims 1 and 8, the Examiner has not made *prima facie* showing that the claims are obvious in view of Yeager. Similar arguments also apply to claims 4, 5, 8 and 12 which the Examiner also rejects as being mere manner of design choice.

Yeager fails to address at all the need to apply the housing directly to any type of article, let alone, to an arcuate article such as a bottle. In fact, Yeager provides a strap which is lockingly insertable into the housing so as to apply the assembly to the article using the strap not the housing itself as the attachment device. Thus, Yeager lacks specific recitation of the structure set forth in claims 1 and 8, and as Yeager further lacks any suggestion to use its device in a manner presently claimed, Yeager fails to render obvious the present claims.

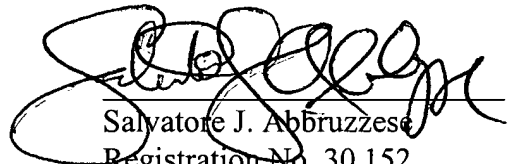
The remaining reference of record, namely, U.S. Patent No. 6,092,401 to Sankey et al. is not applied to independent claims 1 and 8. Moreover, Sankey et al. fails to disclose the specific configuration set forth in independent claims 1 and 8.

Applicant(s): Kolton et al.
Docket No.: 1201-23
February 2, 2005
Page 4

Accordingly, having failed to present a *prima facie* case of obviousness with respect to the Yeager reference. The present application including claims 1-14 is therefore believed to be in condition for allowance. Favorable action thereon is respectfully solicited.

Should the Examiner have any questions or comments concerning this application or this amendment, he/she is invited to contact the undersigned counsel.

Respectfully Submitted,



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